

OVERSIGHT BOARD AGENDA STAFF REPORT

TO: Honorable Chair and Members of the Oversight Board

FROM: Michael Huntley, Oversight Board Staff Liaison

SUBJECT: Resolution of the Montebello Oversight Board adopting the Recognized Obligations Payment Schedule for the period of January 1, 2014 to June 30, 2014 (ROPS 13-14B).

DATE: September 17, 2013

OBJECTIVE

Obtain Oversight Board approval of the Recognized Obligations Schedule covering payments due on enforceable obligations between January and June, 2014.

BACKGROUND

The Montebello Redevelopment Agency (“Agency”) was created by the City Council for the purposes of implementing redevelopment activities in the City of Montebello (“City”). The City Council adopted redevelopment plans for the Montebello Hills Redevelopment Project, Montebello Economic Revitalization Project and the South Montebello Industrial Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) (“CRL”). The three redevelopment project areas were found to have a significant number of physical and economic blighting conditions that necessitated adoption of a Redevelopment Plan for these areas. Each Redevelopment Plan authorized the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature subsequently enacted, and the Governor signed, Assembly Bill 1X 26 (“AB 1X 26”) and Assembly Bill 1X 27 (“AB 1X 27”). AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and purported to dissolve redevelopment agencies by October 1, 2011. AB 1X 27 contemplated an alternative “opt in” program, allowing individual redevelopment agencies to avoid dissolution if they agreed to make specified “ransom” payments to the State. AB 1x27 was subsequently ruled unconstitutional by the California Supreme Court in *California Redevelopment Association v. Ana Matosantos*, and the result was the dissolution of redevelopment agencies throughout the State effective February 1, 2012.

On January 11, 2012, the City Council of the City of Montebello adopted a resolution electing to serve as the “successor agency” to the dissolved Agency, and thereby assumed responsibility for winding down the Agency’s affairs. Part of the Successor Agency’s responsibilities includes preparing and adopting a Recognized Obligations Payment Schedule (“ROPS”) for each six (6) month fiscal period. The ROPS is required to list all payments due on “enforceable obligations”

during the applicable payment period. To date, the Successor Agency has prepared and approved four (4) ROPS documents. On September 11, 2013, the Successor Agency adopted the fifth ROPS (“ROPS 13-14B”) document for the payment period of January 1, 2014 to June 30, 2014. (See **Attachment “A”**.)

Before it is deemed valid, a ROPS must be submitted to and approved by the Oversight Board, and thereafter submitted to the county auditor-controller, State Controller, and the Department of Finance (“DOF”) for subsequent review and approval. The Successor Agency is statutory required to submit an Oversight Board-approved ROPS 13-14B to DOF for review before October 1, 2013. Failure to comply with this deadline is punishable by significant statutory penalties.

DISCUSSION

Since the Successor Agency has prepared and approved its proposed ROPS 13-14B, the Oversight Board must now review and consider the same. Once ROPS 13-14B is approved by the Oversight Board, the document will then be forwarded to the County Auditor-Controller, the State Controller, and DOF for review and approval.

The proposed ROPS 13-14B schedule includes each of the items that were approved by the Oversight Board and DOF on ROPS 13-14A (the last ROPS), and includes the additional items highlighted below:

- Item 29 – This item represents expenses paid by the City on behalf of the Successor Agency for the maintenance of the Police Department facility, City Hall, and Henry Acuna Park between February 1, 2012, and June 30, 2013. These facilities are owned by the Successor Agency, though their transfer to the City of Montebello as “governmental purpose” properties is currently pending before DOF. Such expenses constitute “enforceable obligations” pursuant to Health & Safety Code § 34171(b) (employee costs associated with project management or construction are excluded from administrative costs) and § 34171(d)(1)(F) (contracts necessary for maintaining assets prior to disposition constitute enforceable obligations).
- Items 30-32 – These items were improperly classified as administrative expenses by DOF on ROPS II, but were subsequently correctly recognized as non-administrative “enforceable obligations” on ROPS III and ROPS 13-14A following clarifications in the law provided by AB 1484. (See, e.g. **Attachment “C”** [Finance ROPS III Determination Ltr, Items 19 and 24; **Attachment “D”** [Successor Agency’s ROPS III, Items 19, 22, 24].) However, the county auditor-controller’s ROPS II “true up” of actual versus estimated expenditures for determining ROPS 13-14A funding failed to reflect DOF’s revised determination. (**Attachment “E”** [Auditor-Controller ROPS II “True Up” Notes].) This resulted in retroactive “underfunding” of these items by a reducing in the Successor Agency’s ROPS 13-14A funding. The Successor Agency has placed these items back on the ROPS 13-14B to recover these approved expenses.
- Item 34 – This item relates to Item 16 on ROPS 13-14B, which has been approved as an “enforceable obligation” on all prior ROPS of the Successor Agency. (See, e.g. **Attachment “C”** [Finance ROPS III Determination Ltr].) However, during the county auditor-controller’s ROPS II “true-up” of estimated versus actual payments, the auditor-

controller did not include the Successor Agency's payment of this item into its calculation of "authorized" payments. (**Attachment "E"** [Item 16].) As a result, the Successor Agency was underfunded during the ROPS 13-14A period in an amount equal to the approved ROPS II payment on this item. This item has been added to recapture this amount.

- Item 35 – Item relates to the Montebello Public Financing Authority Variable Rate Lease Revenue Refunding Bonds, 2004 Series A ("2004 Bond Issuance"), issued to refinance a bond issuance whose proceeds were used to fund the acquisition and construction of a hotel project known as the Hilton Garden Inn Montebello. (**Attachment "F"** [Official Statement].) Simultaneously with the 2004 Bond Issuance, the City and former Agency entered into an "Amended and Restated Montebello Hotel Project Agreement" ("Montebello Hilton Agreement") pursuant to which the Agency agreed to satisfy the City's debt service on the 2004 Bond Issuance. (**Attachment "G"** [Montebello Hilton Agreement, § 2.02].) The Montebello Hilton Agreement constitutes an "enforceable obligation" pursuant to Health & Safety Code § 34171(d)(2) (agreements between city and redevelopment agency executed simultaneously with and for the purpose of securing "indebtedness obligations" (i.e. bonds) constitute enforceable obligations).

Please be advised that during this last six (6) month period, DOF changed the format of the ROPS document again. The ROPS 13-14B attached hereto complies with this new format.

RECOMMENDATION

It is recommended that the Oversight Board adopt the attached resolution approving the Recognized Obligations Payment Schedule (ROPS 13-14B) for the period of January 1, 2014 to June 30, 2014.

ATTACHMENTS

- A) Recognized Obligations Payment Schedule (ROPS 13-14B)
- B) Oversight Board Resolution Approving ROPS 13-14B
- C) Department of Finance ROPS III Determination Letter
- D) Successor Agency's ROPS III
- E) Auditor-Controller's ROPS II True Up Notes
- F) Official Statement Re: 2004 Bond Issuance
- G) Montebello Hilton Agreement